United Nations CCPR/C/SR.3464

International Covenant on Civil and Political Rights

Distr.: General
22 March 2018

Original: English

**Human Rights Committee**
**122nd session**

**Summary record of the 3464th meeting**
Held at the Palais Wilson, Geneva, on Monday, 19 March 2018, at 3 p.m.

*Chair*: Ms. Waterval (Rapporteur)

## Contents

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*Sixth periodic report of Hungary*

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*In the absence of Mr. Iwasawa, Ms. Waterval (Rapporteur) took the Chair.*

*The meeting was called to order at 3 p.m.*

**Consideration of reports submitted by States parties under article 40 of the Covenant** (*continued*)

*Sixth periodic report of Hungary* (CCPR/C/HUN/6; CCPR/C/HUN/QPR/6)

1. *At the invitation of the Chair, the delegation of Hungary took places at the Committee table.*

2. **Mr. Szijjártó** (Hungary) said that it was doubtless an unintended coincidence that his delegation was meeting with the Committee 20 days before parliamentary elections in Hungary. Because of its long history of fighting for freedom against oppressive powers, Hungary was a nation which appreciated basic human rights. The Government had a fundamental responsibility to guarantee citizens the right to security, to work, and to be part of a family.

3. It was the firm conviction of the Government that the Hungarian people had the right to live their lives in security. However, as demonstrated by recent events in Europe, illegal immigration, which was closely related to an increase in the threat of terrorism, was putting Hungarians in danger. In 2015, some 400,000 illegal migrants passed through Hungary in violation of numerous international and domestic standards and regulations. The Government was thus adamantly opposed to international treaties supporting immigration. Furthermore, in keeping with its view that Hungarians had the right to voice their opinions on the matter, the Government had conducted a national consultative process, which had revealed that Hungarians were overwhelmingly opposed to illegal migration. Contrary to the belief espoused by many countries and organizations, an integrated, well-ordered homogeneous society was not worth less than a multicultural one.

4. The power to determine who should be allowed to live in the country should reside solely with the Hungarian people. Nevertheless, numerous NGOs promoting international interests were challenging the Government's anti-immigration stance. Those NGOs, most of which were part of the network established by George Soros, were falsely claiming that they represented Hungarian society; since no NGOs had been popularly elected, it was not possible for them to speak on behalf of the people. In a demonstration of the lack of popular support for non-governmental organizations, fewer than 200 out of 4.5 million taxpayers had chosen to donate 1 per cent of their income tax to civil associations, despite being given the option to do so. Although pro-immigration NGOs were certain to continue disputing the matter, the Government would not be persuaded to change its position on immigration.

5. The Government guaranteed the fundamental right of all citizens to work and as a result of its efforts, there was nearly full employment in the country. In addition, since 2010, average real wages had increased by over one third and the minimum wage had increased by nearly 90 per cent.

6. It was the obligation of the Government to ensure another fundamental right, namely protection of the family. The answer to societal challenges such as the need to increase the birth rate did not lie with immigration; family policy measures were the appropriate response to such circumstances. In that regard, numerous successful measures had been implemented to support Hungarian families, including a range of tax breaks and a family home-creation benefit. In addition, free meals and schoolbooks had been provided to record numbers of Hungarian schoolchildren.

7. **Mr. Shany** said that he wished to recall that the dialogue with the Committee was not a discussion on theoretical matters, but rather one concerning the implementation of a legal instrument, namely, the Covenant. It was indeed a coincidence that the current dialogue was taking place so close to the holding of elections in Hungary; the timing of the meeting depended entirely on the rules of the optional reporting procedure, the purpose of which was to ensure prompt consideration of State party reports.

8. Although legislation enacted in 2011 contained some important privacy-protection measures, the Committee would appreciate more information on the legal framework

governing the collection of data for the purposes of national security. It would also like to know whether the legislation in question had been amended following the decision of the European Court of Human Rights in the case of *Szabó and Vissy v. Hungary*. It would be interesting to learn more about the surveillance powers exercised by national security services as part of counterterrorism activities, including details on the remedy available to institutions or individuals that were subject to such surveillance. Since there was no provision for the duty of notification under Act No. 125 of 1995 on the National Security Services, he wished to know whether national security-related surveillance measures remained exempt from the requirement of prior judicial authorization.

9. He would welcome clarification on the abolition of the institution of *actio popularis*, including information on the effectiveness of the constitutional complaint procedure put in place as a substitute. It would be useful to learn whether the new system provided adequate human rights safeguards in the light of reports that it involved a very long process, during which there was no suspension of the legislation called into question. It bore emphasizing that NGOs played a very important role in protecting the rule of law and upholding the rights of minorities in society.

10. Although the European Commission for Democracy through Law (Venice Commission) had been generally supportive of the approach taken in the Act on the Rights of Nationalities, he would like to know whether the State party had addressed the Commission's concern that the Act imposed an excessively heavy regulatory burden on minority self-government structures.

11. He would appreciate information on the measures taken to ensure compliance with the Views adopted in respect of *Párkányi v. Hungary*, *Kulomin v. Hungary* and *Borisenko v. Hungary*. Specifically, he wished to know whether the new law on prison conditions and compensation was retroactively applicable and whether reparations had been made in the case of *Kulomin v. Hungary*. In the light of the State party's assertion of its rejection of the Views regarding *Borisenko v. Hungary*, he wished to point out that the Committee expected its Views to be given good-faith consideration and would welcome the State party's comments in that regard.

12. The Venice Commission had raised a number of concerns regarding the Fundamental Law, despite its many positive features. He would welcome information on the State party's response to those concerns, including information on Constitutional Court limitations and open-ended limits on free speech resulting from the fourth amendment to the Law. He would appreciate examples of cases in which the Constitutional Court and national courts had referred to the Covenant. In the light of reports that structural and procedural changes thereto had allowed the Government to exert increasingly decisive influence over the Constitutional Court, he would welcome the delegation's assurances to the contrary. He also wished to learn more about the budgetary exception introduced by the Fundamental Law with regard to the competence of the Constitutional Court.

13. He would be interested to hear the delegation's comments on: concerns regarding the practice whereby Constitutional Court decisions that sought to protect minority rights were systematically and effectively overruled; the reportedly weakened independence of the judiciary resulting from the extensive powers of the National Office for the Judiciary; and the decision of the European Court of Human Rights in the *Baka v. Hungary* case. Finally, he wished to learn more about the Human Rights Working Group.

14. With regard to domestic violence and violence against women, he would like to know what progress was being made on the national strategy guidelines on combating domestic violence and whether the State party intended to ratify the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) and incorporate it into domestic law. With regard to "relationship violence", he was concerned at the fact that, to be publicly actionable, the offence as defined in article 212/A of the Criminal Code was required to have been committed "on a regular basis". Did that mean that a single instance of domestic violence was punishable only if a private complaint was brought? What happened if the victim did not have the capacity to complain? He wondered why article 212/A was silent on the matter

of sexual violence in a domestic context, and why the definition of family excluded family-like relationships other than cohabitation.

15. The number of prosecutions for domestic violence appeared fairly low, and yet in a survey by the European Institute for Gender Equality (EIGE) 27.7 per cent of women had reported experiencing physical and sexual violence from the age of 15 onwards. He would like to know whether the State party tracked the number of prosecutions. Could the delegation indicate whether any progress had been made? He would be interested in the delegation's comments on what appeared to be a general phenomenon of underreporting, which, according to civil society groups, was related to a perception of police ineffectiveness and a fear of retaliation by abusers. He would like to know why restraining orders were limited to 60 days, renewable only in the event of a recurrence of the behaviour. Given that such orders could be issued only to persons who were legally related to the victim, he wondered what protection existed for persons who were at risk within a relationship that did not qualify as a family relationship under the law.

16. The total number of beds in the shelters around the country was 127, which appeared rather small. Did the delegation believe that it was enough to meet the needs of the entire country? He would welcome the delegation's comments on reports that not all "secret shelters" were in fact secret and that the security protocols applicable were inappropriate.

17. **Ms. Brands Kehris**, noting that the Commissioner for Fundamental Rights had been granted A status by the International Coordinating Committee (ICC) for National Human Rights Institutions, asked what steps had been taken to address the recommendation made by the Subcommittee on Accreditation to establish a clear, transparent and participatory process of selection to that institution. She said that she would also like to know more about the procedure for requesting a budget as part of the overall State budget and particularly whether the executive amended the institution's budget proposal before submitting it to Parliament. She would be grateful if the delegation could provide the budget figures for the five years up to and including 2018 and indicate whether they corresponded to the budget requested.

18. The Commission's mandate was expanding, notably to include the rights of persons with disabilities and the prevention of torture, and she wondered whether a needs assessment had been conducted to determine what additional resources might be required to ensure continued effectiveness. The Commissioner's mandate included equality, which was also covered by the Equal Treatment Authority, and she would appreciate an explanation of the scope of action of each institution in the area of discrimination.

19. She had been interested to note that the list of protected grounds in article XV of the Basic Law included "any other status", which covered intersectional and multiple discrimination. She would like to know whether such an approach to multiple discrimination was effective and whether it would allow for distinct penalties as compared to the definition of a single ground. Could the delegation provide any examples of relevant cases?

20. She requested information on the number of decisions taken by the Commissioner in the past five years and, noting that they were not legally binding, asked what the compliance rate with those decisions was.

21. The Unified Statistical System of Investigations and Prosecutions did not contain data on sexual orientation; did that apply to all other prohibited grounds for hate crime? She would like to know whether the recording of hate crime on grounds of sexual orientation was at the discretion of the authorities. She wondered whether the delegation was aware of any complaints of hate speech or hate crimes based on sexual orientation or gender identity, or any prosecutions. She would like to know whether law enforcement officers, prosecutors and judges received training on the handling of hate crime on such grounds and what other measures were being taken to combat that kind of hate crime.

22. She would appreciate the delegation's comments on reports of discrimination and harassment against lesbian, gay, bisexual, transgender and intersex (LGBTI) persons, and any information it could provide on investigations carried out and their outcome. In the light of surveys conducted by European Union bodies, and of the attention given to the

subject in the universal periodic review of Hungary in 2016, she would appreciate hearing about any strategies in place to tackle such discrimination. She would be particularly interested in steps to address discrimination in education, given that LGBTI students reported bullying and harassment and that authorized textbooks did not always refer to sexual orientation in an objective fashion.

23. Transgender persons appeared particularly vulnerable to discrimination in employment and there seemed to be no legal protection against discrimination on grounds of sexual orientation in the private sector. She wondered what was being done to address that situation. Given the generally negative attitudes towards LGBTI persons in the State party, she would like to hear about any awareness-raising and other measures put in place to prevent such discrimination, such as training of public officials and teachers.

24. **Ms. Jelić** said that it appeared that the Roma in the State party still faced systematic discrimination and inequality in all areas of life. In the matter of minority rights protection there were serious allegations, from various international bodies including the Council of Europe, that the law in the State party was not applied equally to all. Notwithstanding the commendable measures outlined in the State party's report, there appeared to be a gap between the law and its implementation. She would like to know what measurable outcomes had resulted from the various strategies and action plans the State party had put in place, and what data it could provide to demonstrate that the situation of the Roma — notably their living conditions — had improved. She also wondered whether any consultations had been held with Roma representatives.

25. In the light of the Public Education Development Strategy, she would be particularly interested to hear what had been done to improve Roma children's opportunities to access all levels of education and to prevent their placement in segregated classes. According to information from the Council of Europe and evidence from the State party itself, segregation of Roma children in school had become more widespread. Among other things, their inclusion in mainstream schools appeared to be contingent on their first "catching up" in segregated conditions and therefore was unlikely ever to happen. She was greatly concerned about the ruling by the Curia to the effect that segregation of Roma children was not unlawful in faith-based schools, which was contrary to the concept of equal treatment. That ruling contrasted with the European Court of Human Rights finding of a prima facie case of indirect discrimination in *Horváth and Kiss v. Hungary*, on the grounds that Roma children were systematically misdiagnosed as having mental disabilities and on that basis wrongfully placed in special remedial schools. She would like to know what measures the State party was taking to prevent wrongful placement. She also requested information on the concept of "complex desegregation", as well as figures on the dropout rate for Roma children, fewer and fewer of whom seemed to be reaching secondary school.

26. She would like to know when the Anti-Segregation Roundtable had been established and whether it included representatives of the Roma or other national minorities. More generally, how often did national minorities take part in the work of such bodies? She wondered how many students from national minorities including Roma had benefited from the Bursa Hungarica Local Governmental Scholarship and the State-funded training in higher education referred to in the report.

27. There was clearly a gap between law and practice in respect of hate crimes against members of vulnerable groups. There were serious allegations that the police failed to act impartially and applied double standards in cases involving Roma in particular. In four relevant cases, the European Court of Human Rights had found a failure on the part of the authorities to investigate the hate motivation behind crimes of violence against Roma. She would appreciate receiving information on any corrective measures being taken in that regard, as well as statistics on the number of persons charged and sentenced for such crimes, or acquitted.

28. In 2014 the police had reportedly rejected an NGO proposal to set up a joint working group against ethnic profiling; she wondered whether there had been any developments since and whether cooperation between NGOs and the police on that issue had improved. The police were also apparently failing to comply with their obligations under a 2016

agreement to avoid discriminatory identity checks; she would appreciate the delegation's comments.

29. Lastly, she enquired about the training received by judicial and police officials in detecting and investigating hate crimes and about any protocols or guidelines that might be available to make investigations more effective.

30. **Mr. Politi** said that he would like to know whether the "cross-sectoral working group" set up under the National Disability Programme to make recommendations for improving the conditions of persons with disabilities had produced a document or made specific proposals for the protection of the rights of persons with disabilities. He wondered what specific results had been obtained by the disability coordinators and what impact their work had had on the treatment of persons with disabilities. He would also be grateful for more information on the measures proposed for persons with mental disabilities in the draft Kopp Mária National Mental Health Strategy 2016–2020 and the current status of the draft.

31. According to reports more than 23,000 persons with disabilities were confined in long-term residential institutions, in many cases involuntarily under the system of guardianship. The Committee also had information about cases of torture and ill-treatment in such institutions, notably at the Tophaz special home, where inmates had been placed in cage beds and endured malnutrition and violence, including sexual violence. He asked whether any effective action had been taken as a result of the investigations carried out by the authorities in that case.

32. Similar concerns applied to children who were in large residential institutions rather than in family-type placement or foster homes. He asked the delegation to provide statistics on the number of children with disabilities placed with foster parents and the number in residential institutions. He would welcome the delegation's comments, and information on any measures taken to prevent such ill-treatment and punish those responsible.

33. He asked the delegation to provide updated information on the new draft strategy on deinstitutionalization, particularly its main features and the time frame for its adoption. What special measures were envisaged with regard to children and persons with psychological disabilities?

34. Referring to paragraph 111 of the State party's report, on the restriction of voting rights for persons with disabilities, he asked what criteria the courts were required to apply in determining such restriction and what form the judicial proceedings took in such cases.

35. He would like to know whether the institution of supported decision-making was comparable to guardianship and what degree of autonomy the beneficiary was able to exercise. What were the support person's functions in respect of the exercise of the right to vote? Were they permitted to accompany the person involved into the polling station or only to help them to understand the voting mechanism?

36. The Committee took note of the information provided by the State party with regard to sterilization, but would welcome further information on the forced sterilization of persons with disabilities, including statistics relating to the number of persons with disabilities forcibly sterilized in the previous five years. In 2013, the Committee on the Elimination of Discrimination against Women had expressed its concern regarding reports that women with disabilities in Hungary were often sterilized without having given their free and informed consent and that current legislation established wide-ranging grounds for sterilization. He wondered whether the delegation could comment on those reports. Moreover, the Committee would welcome further information on the procedure leading to the sterilization of persons with disabilities, specifically whether legal guarantees were in place to ensure that patients had indeed given their consent.

37. **Mr. Ben Achour** said that, although he accepted that it was normal for a Government to want to ensure the security of its population, a Christian society, as the delegation had described the society of Hungary, also had a duty to take care of foreigners in its community.

38. In its replies to issue 10 of the list of issues prior to reporting, the State party had provided ample information regarding measures taken by the Government towards the

achievement of gender equality. However, it had not provided information regarding how it planned to eradicate gender stereotypes in society. In fact, in statements made by some Hungarian politicians and in some of the training material of the Hungarian police force, dangerous gender stereotypes were actively promoted. He would welcome the delegation's views on whether the State had a duty to tackle gender stereotypes and was interested to know of any positive measures that the Government had considered taking to put an end to the culture of the belittlement of women, both in ideology and in practice.

39. The State party's replies to issue 12 of the list of issues prior to reporting, on human trafficking, had been comprehensive and precise. However, he would appreciate clarification of paragraph 147 of the State party's report, which was ambiguous. Specifically, he would welcome an explanation of what was meant by parasite crimes. Furthermore, he wondered whether the delegation could clarify the mechanics of the child protection warning system mentioned in paragraph 135 and the details of the Victim Support and Compensation Act 2005 mentioned in paragraph 142, with particular regard to instant monetary aid, safe houses and state compensation for victims. In addition, the Committee would welcome statistics regarding trafficking-related investigations, trials and convictions.

40. Lastly, the Government had justified its decision to lower the age of criminal responsibility from 14 to 12 by indicating that by the age of 12 children had finished their primary school studies and had developed sufficient intellectual capacity to take responsibility for their actions. However, both of those claims had been contested by Hungarian non-governmental organizations. He wondered whether the delegation could comment on civil society's criticism of its decision.

41. **Ms. Kran** said that she would welcome the delegation's comments on the practice whereby police or prosecutors in Hungary had discretion over the appointment of state-funded lawyers for detainees who required legal aid. The Committee understood that the same lawyers were chosen on most occasions. In fact, some lawyers based their entire practice on such legal-aid appointments and were therefore financially dependent on the police. She was therefore interested to know how the State party ensured that the appointment relationship between prosecutors and legal-aid lawyers did not negatively influence or place pressure on the latter in such a way as to jeopardize the effective representation of arrested persons.

42. It had been reported that indigent defendants received a lower quality of representation from legal-aid lawyers than from other lawyers. She therefore wished to know what measures were in place to ensure that indigent defendants received meaningful representation from state-funded lawyers; how it was ensured that all defendants were given information on their rights in a manner that they understood; and whether the State party had considered gathering reliable feedback as a source of information about state-funded lawyers with a view to ensuring more effective legal representation.

43. Lastly, the Committee understood from the State party's report that the participation of defence counsel was compulsory in criminal proceedings. However, practitioners had claimed that, in practice, they were given such short notice of proceedings that they could not be physically present, which was all the more problematic given that neither the police nor the prosecutor were obliged to wait for counsel to arrive before interrogating a suspect. She wondered whether the delegation could elaborate on how the State party planned to ensure that the new Criminal Procedure Code addressed the practice of short notice. For example, it would be useful to know whether the new Code would establish an obligation for police or prosecutors to wait for defence counsel to arrive before beginning interrogations. It would also be useful to know whether there were plans to consistently record video footage of interrogations, whether defence counsel was present or not.

44. **Mr. de Frouville** said that the Government had reportedly submitted draft legislation in January 2018 commonly referred to as the Stop Soros legislative package, in reference to the founder of the Open Society Institute, George Soros. The legislation had been proposed in the context of persistent smear campaigns targeting Mr. Soros, organized by the Government and funded with public money. Those campaigns were conducted through the public statements of political figures, including the prime minister, and through

billboards representing Mr. Soros as the mastermind of a conspiracy to facilitate the mass entry of migrants into Hungary. According to the reports of some organizations, the conspiracy theory had openly anti-Semitic themes, similar to those of anti-Semitic propaganda from the 1930s. Notably, on Thursday 15 March, Prime Minister Viktor Orbán had delivered a speech in Budapest in which he had used words such as different, hiding, crafty and international to describe the supposed enemy of Hungary, further stating that the alleged enemy speculated with money and had no homeland. With that in mind, he wished to know what measures the State party planned to take to put an end to smear campaigns that incited hatred against foreigners and so-called foreign agents, including conspiracies reminiscent of anti-Semitic propaganda, in accordance with articles 19 and 20 of the Covenant.

45. **Ms. Cleveland** said that since the State party had last come before the Committee, it had adopted a constitution, known as its Fundamental Law, and passed numerous additional laws. For example, between May 2010 and March 2012, the Parliament had adopted over 160 new laws and had amended a further 219. The Committee had received reports that many of those new laws and amendments had been passed using abbreviated legislative processes, which did not allow for adequate engagement with the political opposition and civil society or for public review and debate. For example, a large number of new organic laws had been passed and could only be amended through a two-thirds majority, while bills submitted by individual members and parliamentary committees were considered by Parliament before being published for scrutiny. Members of the opposition were limited in their ability to participate in the legislative process, including the preparation of the new Fundamental Law. Legislation had been passed that excessively shortened the time allocated to legislative debates on bills, and important substantive amendments were often made to laws after they had been debated in Parliament, under the rubric of technical amendments.

46. Furthermore, retroactive legislation had been passed that seemed to benefit certain individuals, including by lowering the minimum age requirements for public offices and extending the ability of incumbent holders to remain in office, while other pieces of legislation prematurely removed individuals from office, as had happened in the case of András Baka, the president of the Hungarian Supreme Court. What is more, the media had been restricted in its ability to cover parliamentary procedures. In its opening remarks, the delegation had emphasized the right of all Hungarians to voice an opinion on issues of public importance. She therefore wondered how the legislative processes she had described were consistent with Hungary's obligations under articles 2 (2), 19 and 25 of the Covenant and she wished to know what measures the Government had taken to ensure that legislative and constitutional reform was developed through an open and inclusive process allowing for meaningful input from opposition politicians, civil society and the public.

47. **Mr. Muhumuza** said that he wondered whether the State party had any advocacy programmes for black persons in Hungary, in view of their very small number as a proportion of Hungarian society.

48. He had heard reports that xenophobic language had been used by high-level Government officials with regard to migrants and members of the Roma community. Further reports indicated that members of the current Government had threatened to exact political revenge on their opponents once in power. He wished to know whether revenge was a policy endorsed by the Government and, if so, what form that revenge would take. He found it appalling that such rhetoric was used by persons holding high office in Government, especially because it was reminiscent of the xenophobia that preceded the Second World War. He would appreciate the delegation's comments in that regard.

*The meeting was suspended at 4.55 p.m. and resumed at 5.20 p.m.*

49. **Mr. Szijjártó** (Hungary) said that his country had struggled against dictatorships throughout its history. For that reason, he would reject in the strongest possible terms any attempt to align Hungary with the dictatorships of the twentieth century. In 2010, the country had been on the edge of a precipice. His Government had been democratically elected by a two-thirds majority and had a clear mandate to carry out deep structural

reforms. It was simply undemocratic to suggest that the Government should disregard that mandate.

50. Hungary had been the last of the former constituent entities of the Soviet Union to adopt a new constitution. In fact, the Fundamental Law, which had entered into force in 2012, had replaced a text dating from 1949. Members of the public and opposition parties had been involved in the process of adopting the Fundamental Law. There had been a dedicated national consultation, as part of which all Hungarian citizens aged over 16 years had received a questionnaire. Hundreds of thousands of people had responded, and the bill had been amended on the basis of those responses. The Parliament had focused exclusively on the adoption of the Fundamental Law for an entire month.

51. The Government regularly held national consultations in order to give citizens the opportunity to express their views on important issues. The most recent national consultation concerned the issue of illegal migration. The fact that some 2.5 million citizens had responded was evidence of the solid foundations on which the Government's policies on that front rested. The large number of laws adopted in recent years showed that the members of the Parliament were honouring their responsibilities. False allegations were often made against politicians during election campaigns. It was understandable that, once the elections themselves had taken place, such politicians would wish to seek legal redress.

52. It was inaccurate to characterize his Government as anti-Semitic. Holocaust denial was punishable under the Criminal Code. Hungary had the largest Jewish community in Central Europe, and the Jewish community in Budapest played a vital role in the city's cultural life. The Government had funded the reconstruction of synagogues in Hungary and in other countries in the region. George Soros had made clear his views regarding the policies pursued by the Government and his desire for mass migration to Europe and the destruction of the nation State as a phenomenon. The Government had not hidden its disagreement with Mr. Soros. However, anti-Semitism was irrelevant to that disagreement.

53. Since the Government had come to power, the number of Roma students at university level had doubled. The Government sought to ensure that all children were able to enjoy their right to education and had made specific efforts to increase the inclusion of Roma children. In addition, programmes designed to increase the school enrolment rate among children from economically disadvantaged families tended to benefit Roma communities. Education was provided free of charge up to grade 12, textbooks were provided free of charge up to grade 9, and more than 1 million children in the country's nurseries, kindergartens and schools were entitled to a daily meal free of charge.

54. The Government maintained an ongoing dialogue with the leaders of Christian communities in the Middle East and North Africa. It funded schools and hospitals in those regions with the aim of enabling Christian communities to continue living in their historical homelands. As a Christian country, Hungary had a responsibility to protect Christians throughout the world. Christians were fast becoming the most persecuted religious group in the world. The international community should aim to address the migrant crisis by eliminating its root causes. Moreover, women in Hungary enjoyed total equality with men.

55. **Mr. Kecsmár** (Hungary) said that there was a comprehensive legal framework in place to protect refugees. Christian values were also important in that regard. Hungarian Jews lived in peace and had no need to flee their country. Critics of the Government often hurled accusations of anti-Semitism in a cheap attempt to stifle the genuine debate that was currently taking place in society. Over the period 2012–2014, the powers of the National Judicial Council had been strengthened in order to counterbalance the power of the National Office for the Judiciary. The Government was of the view that the appropriate balance had now been struck. The Human Rights Working Group was attached to the Ministry of Justice and met twice a year. Some civil society organizations had decided to discontinue their involvement in the Human Rights Working Group, but they would be welcome to resume their participation in its work in the future.

56. **Mr. Péterfalvi** (Hungary) said that, on 1 January 2012, new provisions on data protection had entered into force. Before that date, the draft provisions had been reworked in the light of comments received from the Venice Commission and the European Commission. In 2016, the European Data Protection Authorities' Conference had been held

in Budapest, which was evidence of the conformity of the country's data protection legislation with European standards. The National Authority for Data Protection and Freedom of Information could investigate complaints relating to secret data collection. Over the course of 18 months, it had carried out 34 stress tests on the specialized services authorized to conduct secret data collection. The National Authority received around 10 complaints a year. It launched investigations in response to those complaints and to other relevant information.

57. **Mr. Mázi** (Hungary) said that the Venice Commission had been critical of the mechanism of *actio popularis* in general and had noted that it was not requisite in a democratic state and that a sufficient and comprehensive level of individual protection could be guaranteed via a full constitutional complaint.

58. **Mr. Tallódi** (Hungary) said that, in accordance with a judgment of the European Court of Human Rights, the Hungarian Government had paid €100,000 in damages and costs to András Baka. It had been decided that no further measures of redress were necessary. By the time that the judgment of the European Court had been delivered, Mr. Baka's original term of office would already have expired. In any case, the presidency of the Curia (Supreme Court of Hungary) was currently not vacant, and the incumbent's mandate would not expire until January 2021. Mr. Baka remained a practising judge in the Curia. The violation found by the European Court was the result of a one-off process of reform of the judicial system.

59. **Mr. Kecsmár** (Hungary) said that Hungary had signed but had not yet ratified the Istanbul Convention. The public consultation held on the matter had yielded a highly negative result.

60. **Mr. Mészáros** (Hungary) said that the national network of residential institutions for victims of domestic violence had been expanded significantly in recent years. In addition, 2018 would see the opening of 5 new crisis centres, 11 new halfway houses and 7 secret shelter houses, which would provide places for a further 236 victims. In 2017, crisis centres and secret shelter houses had been given the opportunity to apply for a grant of 1 million Hungarian forints to cover the costs of introducing more robust security measures. The institutions in the network all had security cameras and access control systems. Although some victims had previously decided to contact their abusers, steps had since been taken to prevent any contact between victims and their abusers. Efforts would continue to be made to improve the network.

61. **Ms. Tóth** (Hungary) said that the Criminal Code, as recently amended, established an age of criminal responsibility of 12 years for certain serious offences, including homicide and voluntary manslaughter. The age of criminal responsibility was set at 14 years for all other offences.

62. **Mr. Mészáros** (Hungary) said that independent experts and a team formed by the Ministry of Human Capacities had conducted checks in response to the claims made by the Mental Disability Advocacy Centre regarding the situation in Topház, an institution for persons with disabilities in Gödöllő. Although it had been determined that the specific claims made regarding the institution were unfounded, the Ministry had identified a number of deficiencies and had developed an action plan aimed at overcoming them. In the short term, conditions would be improved. It had been proposed that, in the long term, the institution should be placed under the control of a charity association and ultimately replaced. To that end, the Ministry for National Economy would set aside up to 2 billion Hungarian forints in 2018 and 2019.

63. **Mr. Kecsmár** (Hungary) said that the quality of legal counsel in Hungary was guaranteed by the fact that only lawyers admitted by the country's bar associations were authorized to practise.

*The meeting rose at 6 p.m.*

United Nations CCPR/C/SR.3465

International Covenant on Civil and Political Rights

Distr.: General
23 March 2018

Original: English

**Human Rights Committee**
**122th session**

**Summary record of the 3465th meeting**
Held at the Palais Wilson, Geneva, on Tuesday, 20 March 2018, at 10 a.m.

*Chair*: Ms. Waterval (*Rapporteur*)

## Contents

Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

*Sixth periodic report of Hungary* (*continued*)

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*In the absence of Mr. Iwasawa, Ms. Waterval (Rapporteur) took the Chair.*

*The meeting was called to order at 10 a.m.*

**Consideration of reports submitted by States parties under article 40 of the Covenant** (*continued*)

*Sixth periodic report of Hungary* (*continued*) (CCPR/C/HUN/6; CCPR/C/HUN/QPR/6)

1. *At the invitation of the Chair, the delegation of Hungary took places at the Committee table.*

2. **Mr. Kecsmár** (Hungary), resuming his delegation's replies to the questions raised at the previous meeting, said that his country had been the first member State of the European Union to transpose Directive 2012/29/EU, establishing minimum standards on the rights, support and protection of victims of crime, into national law. It had also assumed the leadership of the European Network for Victims' Rights.

3. **Ms. Váradi** (Hungary) said that a qualified majority of two thirds was required to pass or amend cardinal acts, including those pertaining to human rights and State institutions. The constitutionality of cardinal acts could be assessed by the Constitutional Court. The expedited legislative procedure was subject to several qualitative and quantitative restrictions. Proceedings could be brought before the Constitutional Court if the legislator failed to comply with the relevant substantive or procedural requirements.

4. The Commissioner for Fundamental Rights monitored the respect of fundamental rights by public administration bodies, notaries and other authorities. It produced reports and issued recommendations to those authorities. The Equal Treatment Authority, meanwhile, investigated cases of discrimination in all sectors and imposed penalties if necessary.

5. **Mr. Mészáros** (Hungary) said that the Equal Treatment Act had been amended in 2017 to prevent discrimination on the basis of ethnic origin and to raise the quality of minority education. Measures had been taken to address segregation in mainstream education and to develop quality inclusive education. A project had been launched in 2017 to support 300 schools where there was a high risk of dropout. Anti-segregation working groups had been set up in all educational districts.

6. In order to ensure that Roma students were not wrongly diagnosed with disabilities, new diagnosis procedures and protocols had been introduced. An early warning and pedagogical support system had been launched in November 2016 to combat school dropout. A programme to reduce dropout among Roma girls had been implemented between 2016 and 2017.

7. Measures had been taken to integrate persons living in extreme poverty into the world of work, through public work schemes and training programmes. The risk of poverty among Roma had fallen by 7.2 per cent between 2015 and 2016. An anti-segregation round table, composed of around 20 professionals from a range of sectors, worked with members of NGOs to develop measures to eliminate segregation.

8. Schools were required by law to prevent and punish bullying of lesbian, gay, bisexual, transgender and intersex persons. Awareness-raising on that issue had been conducted. The biology textbooks mentioned by the Committee were not on the official list of public school textbooks and were no longer used in schools.

9. The deinstitutionalization of children with disabilities was a priority under the new draft strategy on deinstitutionalization. Two psychosocial care homes had been converted into supported housing thus far. The percentage of children with disabilities in specialized foster care had risen from 44 per cent in 2011 to 58 per cent in 2017.

10. Domestic law had been amended in 2004 to prohibit forced sterilization. There had been no cases of forced sterilization in the past five years. Health-care providers were monitored to ensure that full and informed consent was sought before sterilization procedures were performed and penalties were imposed for breaches of the law.

11. **Ms. Nagygyőr** (Hungary) said that the police had been issued a handbook on hate crime. A working group had been established to monitor the investigation of hate crimes. It had been mandated to draw up a protocol for the investigation of such crimes by December 2018. It had also cooperated with NGOs to establish a list of indicators that could be used to identify hate crimes. The civil society initiative to combat ethnic profiling had been rejected because the police were already required to perform their duties without discrimination.

12. **Mr. Tallódi** (Hungary) said that the three judgments handed down by the European Court of Human Rights on the issue of hate crime had concerned the failure to convict the alleged perpetrators of hate crime offences. The incidents in question were isolated cases. Once the judgments had been properly analysed, appropriate measures would be taken.

13. **Mr Shany** said that he had been surprised to hear that the public reaction to the proposal to ratify the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence had been negative. He would like to know which sectors of the population had responded negatively to the proposal and why.

14. The Committee acknowledged that the Government had been elected to implement policies that reflected the preferences of the Hungarian people. However, its role as a treaty body was to review the implementation of an international instrument to which Hungary was a party, in order to ensure that the State remained faithful to its international obligations.

15. He would like to know what measures were being taken to reduce homelessness, especially in Budapest. The national policy on that issue had been declared unconstitutional by the Constitutional Court, yet the Government had bypassed the Court's ruling, under the fourth amendment to the Fundamental Law. Homeless persons were removed from certain areas, including much of Budapest, which, as a World Heritage Site, was considered a protected area. They were fined or, if they were unable to pay, imprisoned. No alternative solutions, such as shelters, had been provided for such persons.

16. He would appreciate more information on the treatment of asylum seekers, especially the travel restrictions mentioned in paragraph 26 of the list of issues. The Committee was not challenging the Government's right to set its own immigration policy; however, the State party needed to be able to show that the use of force against migrants by law enforcement officers was appropriate and necessary. It was not clear how the State party's policies, such as the requirement that police officers push back asylum seekers who were apprehended within 8 km of the border, could be reconciled with its duty to consider asylum applications.

17. He would like to know the outcome of the investigation into the death of a Syrian migrant who had drowned near the border with Serbia in June 2016. He would also welcome information on the number of cases of rough treatment of migrants by law enforcement officers that had been reported and investigated.

18. Lastly, he asked whether it was true that the State party admitted only five asylum seekers from the transit zones into its territory per day and what changes would be made to the administration of transit zones in the light of the decision handed down by the European Court of Human Rights in the case *Ilias and Ahmed v. Hungary*.

19. **Ms. Kran** said that she would like to know what steps were being taken to prevent law enforcement officers from using excessive force in the early stages of investigations; whether there were plans to ensure that video recordings were made of all interrogations; whether detainees were informed about how they could file complaints against law enforcement officers; and how often such complaints were lodged by detainees prior to their release. She wondered what offences were considered to constitute abuse of authority and what sanctions were imposed on officers who had used excessive force against detainees.

20. Noting that very few complaints of ill-treatment resulted in conviction and that convicted officers were able to remain in their position, she asked what measures had been taken to increase the rate of conviction in such cases and to avoid sending the message that

ill-treatment went unpunished. She would also like to know what remedies had been provided to detainees who had suffered ill-treatment.

21. She enquired what measures were being taken to prevent excessive use of force against migrants by law enforcement officers and whether the State party had considered implementing a monitoring and training programme for officers working at the border.

22. She asked whether the investigatory and appeal powers of the Independent Police Complaints Board had changed since 2013 and if not, whether the State party had considered granting the Board stronger powers. She wondered what steps had been taken to address obstacles to the collection of evidence of ill-treatment in prisons and to ensure that detainees who filed complaints were protected from retaliation. In some cases, medical examinations of detainees took place in the presence of officers who had been accused of ill-treatment against them. She would like to know whether there were plans to prohibit that practice, which was incompatible with article 9 of the Covenant. The Committee recommended introducing an approach whereby the presence of law enforcement officers during medical examinations was the exception rather than the rule.

23. She wondered how the practice of notifying a relative or third party within 24 hours of a person's arrest was compatible with article 9 of the Covenant. She also wished to know what amendments were being made to the Criminal Procedure Code to reduce the use of pretrial detention and to ensure that alternatives to pretrial detention were considered; what safeguards were in place to ensure that juveniles were placed in pretrial detention only as a last resort; and what steps were being taken to avoid a retributive approach to juvenile justice, in accordance with international standards.

24. She would be interested to know how many detainees in the Special Security Regime Units remained under the "stringent custodial regime", which the European Court of Human Rights (ECHR) had ruled was in violation of the European Convention on Human Rights. She understood that, following the ruling, the authorities had introduced the right of appeal but she would also like to know if any other steps had been taken to improve the conditions and practices that had led to the violation, and whether the regime was now in line with article 7 of the Covenant.

25. **Ms. Brands Kehris** said that she would appreciate further information about the capacity and effectiveness of the national preventive mechanism, particularly as it did not appear to have visited many detention centres. She still wished to know whether the provision regarding "any other status" contained in article XV of the Basic Law was an effective way of dealing with multiple intersectoral discrimination. In that connection, the delegation should also provide examples of relevant case law. Did the prohibition of discrimination on grounds of sexual orientation also cover employment, especially in the private sector? The delegation should explain whether anti-hate crime provisions specifically mentioned grounds of sexual orientation and gender identity and, if not, whether the Government was envisaging any amendments to make such grounds explicit. She would be interested to learn how the constitutional definition of marriage as a union between a man and a woman was compatible with the prohibition of discrimination on grounds of sexual orientation.

26. Although there appeared to be a commendable downward trend in cases where failure to pay a fine led to detention, the figures for such cases remained high. She hoped the delegation could provide updated statistics and explain if the drop was due to specific targeted measures. Were any additional measures being planned; for example, the conversion of non-payment of a fine into an obligation to perform community service? Were such alternatives also available to poorer persons? She wished to know if there were any plans to amend the law so as to eliminate altogether the provision whereby the non-payment of a fine could lead to detention. The delegation should also provide more general statistics on the application of alternatives to imprisonment for misdemeanours and indicate what proportion of overall misdemeanour cases they represented.

27. She would be interested to hear what the delegation had to say about recent amendments to asylum legislation under which monthly cash allowances and school enrolment benefits were no longer available to asylum seekers, a support scheme to facilitate integration had been terminated and other services for refugees had been cut back,

including a reduction in the period of eligibility for basic health services to just six months. She would like to know how those amendments had affected asylum seekers and refugees, and if any further changes to asylum legislation had been introduced or were being planned.

28. She wished to know whether persons over the age of 14 were automatically detained upon applying for asylum in the transit zones and, if so, how such a procedure complied with article 9 of the Covenant. According to the State party, the Asylum Act did not provide any remedies against a decision ordering asylum detention, although the person concerned could file an objection before a local court. The Committee would be interested to know about the legal basis for that provision and whether it was also applied in the transit zones, and to learn about any cases in which the courts had effectively overturned a decision. The State party should provide updated statistics on the detention of asylum seekers, including numbers of detainees and average and maximum length of detention, also in the transit zones. The delegation should also comment on recent reports that, following the suspension of safeguards, a number of families with small children had been detained inside the transit zones for as long as nine months, and unaccompanied minors for as long as three months.

29. The last proposal to the Asylum, Migration and Integration Fund of the European Commission in respect of the State party's migration strategy 2014–2020 had apparently been made in December 2017. However, the Committee had heard that, in January 2018, the Government had withdrawn the proposal regarding a number of areas, including integration services for unaccompanied minors and social assistance. In the light of that information, could the delegation explain how integration and housing services were to be secured for the beneficiaries of the migration strategy and how those services would be funded? She would also appreciate updated information on the current status of the strategy and any plans for future actions. The delegation should also provide updated statistics on the number of persons being held in detention facilities, including temporary facilities.

30. In the light of "shortcomings" in respect of material conditions, also for young children, in immigration and asylum detention centres, which had been reported by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its 2015 visit to Hungary, she hoped the delegation could explain what steps had been taken to improve those conditions. Could the delegation provide information on material conditions and services in the transit zones, which had also been reported as being poor and inadequate? What measures were taken to ensure that all persons in the transit zones had adequate protection against inhumane and degrading treatment?

31. **Mr. Ben Achour** said that he was concerned about the use of solitary confinement as a disciplinary measure in prisons, particularly with regard to minors. Could the delegation confirm that the maximum duration of solitary confinement for juveniles was 10 days? It was important, moreover, that any decision to keep an inmate in solitary confinement should be subject to appeal. Following a judgment emitted by ECHR in October 2014, Hungary had amended its domestic legislation to allow prisoners serving life sentences to file a request for clemency before the President of the Republic. However, in October 2016, ECHR had ruled that the new legislation still failed to fulfil the obligations of Hungary under the European Convention on Human Rights. In particular, the Court had expressed concern about the requirement to serve 40 years before being allowed to access the clemency procedure, and about the fact that the decision was left entirely to the discretion of the President of the Republic, who was under no requirement to justify his or her decision. In the light of that latest Court ruling, he wished to know whether the Government had any plans to further reconsider its legislation in regard of clemency for prisoners serving life sentences, in order finally to bring it into line with article 3 of the European Convention on Human Rights, which was equivalent to article 7 of the Covenant.

32. **Mr. Politi** said that he would be interested to hear more about the investigation into alleged human rights violations at the Topház Special Home and the "deficiencies" that had been uncovered there. He would also appreciate more detailed information about reports according to which the Commissioner for Fundamental Rights had found that children with psychological disabilities had been subjected to various forms of abuse at the Zita Special Children's Home and the Károlyi István Children's Centre.

33. He wished to know to what extent the action plan that had been introduced following the ECHR judgment in the case of *Varga and others v. Hungary* (14097/12) had been effective in reducing prison overcrowding. He hoped the delegation could provide statistics on the total number of persons held in detention over the previous five years and the average rate of overcrowding in the penitentiary system, also with regard to persons being held in pretrial detention. According to information available to the Committee, the number of pretrial detainees had been increasing steadily since 2013 and currently represented one third of the entire prison population.

34. The ECHR judgment had also drawn attention to conditions inside Hungarian prisons, in particular to poor sanitary facilities, and he would like to know what measures the authorities were contemplating to address that problem. What average space per person was available in Hungarian institutions for the deprivation of liberty? He hoped that the delegation could provide details and statistics on any non-custodial measures available, including the frequency with which accused persons were granted bail or held under house arrest. Had probation supervision helped to reduce the risk of recidivism and, if so, to what extent?

35. He understood that unaccompanied minors seeking asylum who were unable to provide documentary proof of their date of birth were held in detention and subjected to a medical examination to determine their age. In that context, he wished to know how many asylum seekers whom examination had shown to be minors had been held in detention alongside adults and, once their age had been established, how long it had taken to relocate them. How did the State party deal with cases in which the medical examination did not lead to a clear assessment of a person's age? Moreover, the Committee had received information that the age determination process was insufficient and inaccurate, and appeared to be confined merely to physical observation. He hoped the delegation could provide more information in that regard, including any operating procedures and quality standards that were applied. He was particularly concerned about allegations regarding perfunctory age assessment examinations performed by military doctors in the transit zones.

36. The delegation should go into more detail about the judicial review procedures available to unaccompanied child migrants with regard to age assessment. It was not clear how such a review could be requested, who undertook it and whether any decision made could be appealed. He also wished to know if applicants had the right to receive free legal representation and to appoint their own medical experts. According to the Committee's current understanding, only the final decision on an asylum application could be challenged before a judge, not interim decisions. What psychological services were available to unaccompanied minors during and after the asylum procedure?

37. **Ms. Jelić** said that she would be interested to hear more about the structure of the Media Council. How independent was it and what democratic criteria were applied in the selection of its five members? She also wished to know how often the Council had exercised its prerogative to take action against media organizations, including delivering warnings, imposing fines and revoking licences. The State party's response on defamation was unsatisfactory and she wished to know if any changes in that regard had been made since the periodic report had been submitted.

38. She was concerned about continuing government rhetoric and action aimed against civil society. In particular, she was alarmed about the way non-governmental organizations (NGOs) that accepted foreign funding were being treated, and the repercussions such treatment could have for freedom of association and expression. She was also concerned that a 2017 law affecting those NGOs had been adopted despite objections from the Council of Europe and the United Nations. She hoped the delegation could inform the Committee about the status of a petition for the annulment of the law filed by a group of NGOs before the Constitutional Court.

39. A further cause for concern had emerged in January 2018, when a raft of bills had been proposed under the justification of stopping irregular migration, protecting borders and safeguarding national security. In fact, those measures seemed to be part of an escalating crackdown against activist groups, human rights defenders and other organizations and individuals critical of government policy. If adopted, they risked further

endangering vital public debate on sensitive issues such as migration. She hoped the State party would take account of the concerns expressed by the international community, repeal the 2017 law and withdraw the proposed bills.

40. Lastly, she hoped the delegation could elaborate on any steps being taken to promote a pluralistic democratic environment in which civil society could operate freely and safely, and inform the Committee about any measures to prevent attacks and delegitimization campaigns against individuals and organizations critical of the Government.

41. **Mr. Heyns** said the Committee was concerned that the Higher Education Act specifically targeted the Central European University. Reports suggested that amendments to the Act had been fast-tracked in 2017; contained stringent new requirements for universities, including requiring an official agreement between the United States of America and Hungary and work permits for non-European Union academic staff; and effectively provided the Government with the ability to control and close down the activities of the University. Moreover, it appeared that an agreement had been drafted and signed by the relevant authorities in the United States but not by the Hungarian Government, adding to the uncertainty surrounding the University's future. Many of the actions being taken against the University had consequences not only for the enjoyment of the right to education but also for academic freedom, freedom of expression and space for civil society, values protected by the Covenant and by the State party's Fundamental Law. He wished to know whether it was the State party's intention to close the University and, if so, how that was considered to be compatible with the provisions of the Covenant. If the University's closure was not on the agenda, he wondered what the purpose of the law was and when the Government intended to sign the agreement with the United States.

42. **Ms. Cleveland**, while thanking the delegation for the responses provided, said that her specific questions remained unanswered. In particular, she would be interested to hear the delegation's comments on reports that a number of bills proposed by members of parliament had been adopted following an expedited legislative process, which had not allowed opportunity for robust parliamentary debate or adequate engagement with civil society and the general public. Indeed, similar concerns had been expressed by the European Commission for Democracy through Law (Venice Commission) and by the International Bar Association. In that light, she reiterated her question: what measures did the State party intend to take to ensure that all legislative and constitutional reform was undertaken through an inclusive process that allowed for the meaningful contribution of experts, civil society and the general public?

*The meeting was suspended at 11.30 a.m. and resumed at 11.50 a.m.*

43. **Mr. Kecsmár** (Hungary) said that he had been assured that fines were not imposed on homeless people who were sleeping rough. The 2013 amendment to the Fundamental Law, aimed at preventing persons from sleeping rough in certain public spaces, had been introduced in full compliance with the principles of necessity and proportionality and to achieve a legitimate aim. Moreover, there were sufficient spaces in homeless shelters for people who needed them; in many cases, however, homeless persons did not use them.

44. Regarding border procedures, he wished to point out that, while many of the questions raised by Committee members had referred to the so-called detention of asylum seekers, in no circumstances, either in law or in practice, were people detained in transit zones. In fact, not only were persons not detained in the transit zones but they were also able to leave to enter Serbia at any time they so wished. Hungarian legislation was fully in line not only with its international commitments but also with European Union regulations and directives. In fact, the judgment of the European Court of Human Rights in the case of *Ilias and Ahmed v. Hungary* ran contrary to European law, which provided that asylum procedures at the border were permissible and did not require entry to the territory. For that reason, that judgment was by no means final, since the Government had applied to have the decision reconsidered by the Grand Chamber. That referral application had been accepted, which indicated that there were sufficient reasons for the Grand Chamber to be convened, and was set to be heard on 18 April 2018. Lastly, the Government was aware of the ECHR ruling in relation to legislation introduced for the purpose of reviewing whole life sentences and was considering how to introduce changes that would make that law compliant.

45. **Ms. Lévai** (Hungary) said the fact that the Government had signed the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) demonstrated how seriously the principles of that instrument were taken. In fact, many of those principles were already integrated into the Hungarian legal system. For instance, the Criminal Code and the Code of Criminal Procedure provided adequate protection for victims of the offence of domestic violence. Consultations regarding ratification of the Istanbul Convention were ongoing; however, responses from various stakeholders suggested that public opinion on the issue was divided. Further consideration was therefore required before the Government could proceed to ratification.

46. **Ms. Tóth** (Hungary) said that the Hungarian legislation was fully in line with article 9 of the Covenant, which did not set a maximum time frame for pretrial detention. While it was possible for the courts to prolong pretrial detention for more than four years, such a measure was taken only in the most serious cases. Pretrial detention was considered to be a measure of last resort that was taken only if other less restrictive measures were not appropriate. For example, it could be used to prevent recidivism or interference with a criminal investigation, but only if those aims would not be achieved through other means. Moreover, pretrial detention of juveniles was an extraordinary measure taken only when the young person concerned had committed an extremely serious offence. In such cases, the courts were required to take into account a broad range of factors, including the age of the accused and his or her personal circumstances and criminal background, before ordering pretrial detention. Decisions on the pretrial detention of a juvenile could not be taken without the presence of defence counsel, and the court considered the gravity of the offence and the juvenile's profile when deciding where such detention should be carried out. Various alternatives to pretrial detention were also available, including the use of electronic surveillance devices and restraining orders. The latter measure could be ordered to prevent the intimidation of a victim or witness. Recent changes to the Code of Criminal procedure had significantly increased the period for which restraining orders could be imposed. In some cases, they remained in place until the completion of the related criminal proceedings.

47. The Criminal Code contained provisions that identified certain population groups at greater risk of hate crimes based on, among other grounds, sexual identity or sexual orientation; however, the list was not intended to be exhaustive. Any acts constituting hate crimes that were committed against any group of persons sharing similar traits or views, such as language or political ideology, were considered to be offences. The existence of those provisions had not therefore hindered the prosecution of such cases.

48. Lastly, regarding prison overcrowding, various preventive measures had been taken to tackle the problem. For instance, persons deprived of their liberty were able to file complaints with the prison governor, who was required to take steps to improve the conditions of detention for the person concerned, including by moving him or her to a new cell, granting additional time out of the cell or even arranging a transfer to a different institution. A compensation procedure had also been introduced for persons who had suffered injuries as a result of overcrowding.

49. **Mr. Somogyvári** (Hungary) said that, regarding prison overcrowding, an action plan had been devised to ensure that the country met its international obligations in terms of creating sufficient living space for inmates. An additional 1,400 spaces had been created in places of deprivation of liberty, and the Government had launched a similar expansion programme in 2016. Other measures to reduce overcrowding included the introduction of a home detention curfew scheme, known as reintegration custody, which allowed detainees with a good record of behaviour to serve out the final portion of their detention at home while wearing an electronic tagging device. As at February 2018, there were, on average, around 370 offenders who had been released under those conditions, up from just 50 persons in January 2015, and there were plans to further increase those numbers. In addition, the prison service closely monitored population levels in prisons and transferred detainees to less overcrowded prisons as necessary. As a result of implementing such measures, the prison occupancy rate had decreased from just over 140 per cent to just under 130 per cent in 2017 and it was realistically hoped that it would be reduced to 100 per cent by 2019.

50. Contrary to the information provided by Mr. Politi, the number of pretrial detainees had, in fact, steadily decreased. In 2015, some 4,400 persons had been held in pretrial detention, whereas, at March 2018, there were fewer than 3,800 pretrial detainees. The number of juveniles in pretrial detention had also been reduced. Regarding access to health and sanitary living conditions for persons deprived of liberty, a project had been launched in 2017 to ensure that adequate facilities, including separate toilets, were available. Prisons had been required to take steps, by the end of March 2018, to ensure that prisoners had sufficient privacy between toilets and the living areas of cells. In that connection, cells were decontaminated on a quarterly basis to reduce and eliminate the presence of bedbugs. Prisoners were also able to submit complaints, which would require the prison to take immediate action in that regard.

51. **Mr. Tallódi** (Hungary) said that it was worth pointing out that, in the *Ilias and Ahmed v. Hungary* case, the European Court of Human Rights had found that the transit zones were not in violation of article 3 of the European Convention on Human Rights. Regarding the *Domján v. Hungary* case, on detention conditions in Hungarian prisons, the Court had also been satisfied that a new law, which had entered into force in 2017 with the aim of introducing preventive and compensatory remedies in cases of inadequate conditions of detention, provided for genuine and effective redress and met the criteria set down in the pilot judgment of *Vargas and Others v. Hungary*. The Court further ruled that, since the new remedies were considered to be effective, the applicant in the *Domján v. Hungary* case, and all others in his position, must use those available remedies, namely by filing a complaint about conditions of detention or an application for compensation for conditions of detention violating fundamental rights.

52. **Mr. Mészáros** (Hungary) said that deficiencies had been highlighted with respect to certain child protection institutions. Proposals to address those shortcomings and introduce appropriate regulations had been submitted and the Government was committed to taking comprehensive measures in that regard. To that end, a working group had been created, comprising representatives of government ministries, child protection services and the public prosecution service, as well as the Commissioner for Fundamental Rights and various child protection experts, for the purpose of reviewing the current regulations and taking into account good practices sourced from the international community.

53. The situation at the Topház Special Home for persons with disabilities had been thoroughly investigated. Immediate action had been taken to ban new admissions, hire additional staff and refurbish parts of the facility. Efforts had also been made to reduce the number of persons per room, separate adults from minors and train staff in the proper restraint techniques. Moreover, a complaints procedure had been introduced for residents.

54. **Mr. Kecsmár** (Hungary) said that the Media Council was independent and its members were appointed in a transparent manner. In order to qualify as a member of the Council, candidates must be eligible to run for public office, have no criminal convictions, hold a university degree and have considerable work experience in the fields of media and communication. Once appointed to the Council, members were held accountable for their actions by the Parliament. The Media Act provided that broadcasting licences be granted for a duration of up to seven years, with the possibility of extending the licence for an additional five-year period. That represented a reasonably long period of time. The Media Council had imposed fines on broadcasters in a handful of cases, mainly in response to the use of language that incited hatred. Detailed information on the number of sanctions handed down by the Council between 2008 and 2010 would be provided to the Committee in writing within 48 hours.

55. **Ms. Varga** (Hungary) said that legislation banning persons from sleeping on the streets had been designed to help the homeless and encourage them to move into the numerous, readily available shelters across the country. Such an approach, including the issuing of fines, had proved extremely successful and had prevented the death and suffering of countless homeless people during the recent harsh winter. Police officers played a key role in identifying homeless persons and ensuring that they received appropriate care.

56. **Mr. Szijjártó** (Hungary) said that his Government viewed migration as a dangerous phenomenon that must be stopped and it firmly rejected the idea that migrants brought

beneficial skills to their host country. In 2014, two thirds of the population had re-elected the ruling party on the basis of its national security manifesto. It would be anti-democratic to ignore their express wish to safeguard the Hungarian borders. The Government would therefore maintain its strict migration policy and would not allow migrants to transit through the country in order to reach the destination of their choosing.

57. Hungary was not exceptional in wanting to control its own migration policy: a country's ability to protect its borders was a vital element of national sovereignty. Moreover, the Government would be failing in its obligations to protect the European Union's external borders were it to allow migrants free passage. It would therefore continue to combat irregular migration and impose strict penalties on persons entering the country without the proper authorization. Tear gas had been used on a few occasions by police officers manning the borders as a measure of last resort following hours of being attacked with stones, bottles and concrete blocks thrown by migrants.

58. It was wholly legitimate to request that NGOs publish their financial accounts. Out of 61,000 civil society organizations operating in the country, only one or two had submitted complaints to the Committee in that connection. The fact that those organizations did not want to declare their funding sources was highly suspicious and implied that they had something to hide. The Government had the right to expect transparency from NGOs, particularly those wishing to influence public opinion.

59. The amendments to the Higher Education Act had been designed to remove special privileges and create a level playing field for higher education institutions. It provided that foreign universities wishing to operate in Hungary must sign an intergovernmental agreement and have at least one campus in the country in which they were based. Out of 20 foreign universities, only 1 had submitted a complaint to the Committee in respect of the amended Act. Since the university in question did not have a campus in its own country, the Government would not allow it to operate in Hungary.

60. **Mr. Shany** stressed that the Covenant guaranteed the civil and political rights of all persons. It did not oblige Hungary to adopt a specific type of migration policy. The Government must however uphold the principle of non-refoulement and investigate any cases involving the excessive use of force against migrants by law enforcement officers. In that connection, he requested further clarification of the new regulations extending border controls to an 8-kilometre zone within Hungary, which gave police officers the right to escort migrants found in that area to the border. Information about the measures in place to process asylum applications and uphold the principle of non-refoulement would also be welcome in that regard. Lastly, he wished to know more about the "Stop Soros" package of bills designed to impose, inter alia, a 25 per cent tax on foreign donations to NGOs supporting migration. He would particularly like additional information on the introduction of restraining orders aimed at preventing persons who supported migration or who provided assistance to migrants from approaching the country's border.

61. **Mr. Heyns** noted that the democratic will of the population did not override the State party's obligation to give effect to the provisions of the Covenant.

62. **Mr. Politi** echoed the comments on migration made by Mr. Shany and said that he would appreciate a written reply to his questions concerning the efforts made to conduct a comprehensive age assessment of unaccompanied migrant children upon their arrival at the Hungarian border and the steps taken to ensure that they had access to free legal representation and medical assistance.

63. **Mr. Szijjártó** (Hungary) said that his delegation had taken note of the Committee's questions, and would submit additional written replies within 48 hours.

64. **The Chair** thanked the delegation for its willingness to engage in a constructive dialogue with the Committee and for its candid replies to the questions posed by Committee members.

*The meeting rose at 1 p.m.*